

Honorable Patrick Nolan
Member of the Assembly
State Capitol, Room 2114
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. I-88-188

Dear Assemblyman Nolan:

You have requested written advice regarding certain provisions of the Political Reform Act (the "Act")^{1/}. This will confirm telephone advice rendered to your staff on June 1, 1988.

QUESTION

May you send out birth announcements, paid for by your campaign committee, Friends of Nolan, without complying with the requirements for sender identification of mass mailings sent by committees?

CONCLUSION

You should consult with the Attorney General to determine whether such an expenditure by your committee would be permitted under the "personal use" statute, Elections Code Section 12400, et seq.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

printing and mailing borne by your campaign committee, Friends of Nolan.

ANALYSIS

The Act requires a mass mailing of 200 or more pieces of substantially similar mail sent by a candidate or committee to be identified with the name and address of the candidate or committee. (Sections 82041.5 and 84305.)

As you have indicated in your letter, in the Brown Advice Letter, No. A-83-296, the Commission exempted holiday greeting cards from this requirement, provided that the cards make no reference to the candidate's nomination or election matters. This exemption was based on the fact that the mailings would be identified as being sent by the candidate, not the committee. We assume that the birth announcement would clearly identify it as coming from you, the candidate. However, it is also clearly of a personal nature as opposed to a political nature.

This latter point raises a different issue, which was not addressed in our previous advice letter. Elections Code Section 12400, et seq., set forth the proper uses for campaign funds. Under those provisions, "personal use" of campaign funds is prohibited. This agency does not administer or interpret the provisions of the Elections Code. We suggest that you contact the Attorney General for an interpretation of these sections as applied to campaign expenditures for sending out birth announcements.

Once you have received advice from the Attorney General regarding the permissibility of having your campaign committee pay for such a mailing, please feel free to contact this agency again regarding the sender identification issue. Should you have questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel


By: Robert E. Leidigh
Counsel, Legal Division

Enclosure

ASSEMBLY REPUBLICAN LEADER

May 16, 1988

Diane Griffith
General Counsel
Fair Political Practices Commission
Post Office Box 807
Sacramento, California 95804

Dear Ms. Griffith:

This is to request a written opinion as to whether birth announcements, like Christmas cards, sent by a member of the California State Assembly are exempted from the mass mailing identification restrictions.

I would appreciate this opinion as soon as possible.

Sincerely,



PAT NOLAN

PN:pw

Honorable Pat Nolan
Assemblyman, Forty-First District
State Capitol, Room 2114
Sacramento, CA 95814

Re: 88-188

Dear Assemblyman Nolan:

Your letter requesting advice under the Political Reform Act was received on May 20, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert Leidigh, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,



Diane M. Griffiths
General Counsel

DMG:plh